

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GREGORY GARRETT BROWN,

Plaintiff,

v.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

C.A. No. 04-270 Erie

MEMORANDUM ORDER

____ Plaintiff's civil rights complaint was received by the Clerk of Court on September 20, 2004 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on August 2, 2005, recommended that the Defendant's motion to dismiss [12] be granted and the case dismissed for lack of subject matter jurisdiction and/or failure to state a cognizable legal claim. The parties were allowed ten (10) days from the date of service to file objections. Service was attempted on Plaintiff by certified mail at the Erie County Prison, Plaintiff's address of record, and on the Defendant. No objections were filed. After de novo review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 22nd day of August, 2005;

IT IS HEREBY ORDERED that the Defendant's motion to dismiss the complaint [12] be granted and that the above-captioned case be DISMISSED for lack of subject matter jurisdiction and/or failure to state a cognizable legal claim.

The report and recommendation of Magistrate Judge Baxter, dated August 2, 2005, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cc: all parties of record